

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

KIRSTEN PATTERSON,
Executrix of the Estate of
Mary Cae Henderson,

Plaintiff,

v.

CIVIL ACTION NO. 2:19-cv-00195

THOMAS J. CARPENTER,

Defendant.

ORDER

Pending before the Court is Plaintiff Kristen Patterson’s Motion for Leave to Amend Her Complaint. (ECF No. 43.) Plaintiff seeks to amend her Complaint to add Thomas Memorial Health System, Inc. d/b/a Thomas Memorial Hospital as a defendant to this action. On March 13, 2020, Movant Thomas Health System, Inc., Herbert J. Thomas Memorial Hospital Association, Charleston Hospital, Inc., and THS Physician Partners, Inc. (collectively “Thomas Memorial”) filed a Suggestion of Bankruptcy, (ECF No. 49), notifying the Court that these entities filed their Chapter 11 bankruptcy petitions in the Bankruptcy Court for the Southern District of West Virginia on January 10, 2020. *See In re: Thomas Health Systems, Inc., et al.*, No. 20–bk–20007.

Thomas Memorial also notified the Court that pursuant to 11 U.S.C. § 362(a) the Debtors’ filing of a voluntary petition operates as a stay of the “commencement or continuation . . . of a judicial . . . action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose

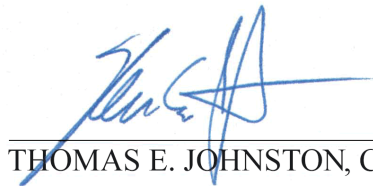
before the commencement of the case” Accordingly, because joinder of Thomas Memorial is prohibited under 11 U.S.C. § 362(a), the Court **DENIES** Plaintiff’s motion to amend, (ECF No. 43).

However, Plaintiff argues Thomas Memorial is an essential party whose presence is required to secure an adjudication on the merits. (ECF No. 44 at 3.) Under Federal Rule of Civil Procedure 19(b)(1), “[i]f a person who is required to be joined if feasible cannot be joined, the court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed.” The Court **ORDERS** the parties to provide further briefing on the issue of whether Thomas Memorial is indeed a required party as defined under Federal Rule of Civil Procedure 19 and, because its joinder is not feasible, whether, under Federal Rule of Civil Procedure 19(b), this action may proceed among the existing parties or if this action should be dismissed. Both parties are to each submit briefing on these issues to the Court on or before **June 12, 2020**. Each party may file a response on or before **June 26, 2020**. Further, all deadlines in this case remain **VACATED** pursuant to the Court’s prior orders. (ECF Nos. 48, 50.)

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: May 13, 2020

A handwritten signature in blue ink, appearing to read "Thomas E. Johnston", is written over a horizontal line.

THOMAS E. JOHNSTON, CHIEF JUDGE